

**PART 18—TEMPORARY INCOME
TAX REGULATIONS UNDER THE
SUBCHAPTER S REVISION ACT OF
1982**

Sec.

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AUTHORITY: 26 U.S.C. 7805.

SOURCE: T.D. 7872, 48 FR 3590, Jan. 26, 1983, unless otherwise noted.

§ 18.0 Effective date of temporary regulations under the Subchapter S Revision Act of 1982.

The temporary regulations provided under § 18.1377-1, 18.1379-1, and 18.1379-2 are effective with respect to taxable years beginning after 1982, and the temporary regulations provided under § 18.1378-1 are effective with respect to elections made after October 19, 1982.

[T.D. 8600, 60 FR 37588, July 21, 1995]

§ 18.1371-1 Election to treat distributions as dividends during certain post-termination transition periods.

A corporation may make an election under section 1371(e) (as amended by section 721(o) of the Act) to treat all distributions of money made during the post-termination transition period described in section 1377(b)(1)(A) as coming out of the corporation's earnings and profits (after earnings and profits have been eliminated, the distributions are applied against and reduce the adjusted basis of the stock). The election may be made only with the consent of each shareholder to whom the corporation makes a distribution (whether or not it is a cash distribution) during such post-termination transition period. Any such election shall be made by the corporation by attaching to its income tax return for the C year in which such post-termination transition period ends a statement which clearly indicates that the corporation elects to have section 1371(e)(1) not apply to all distributions

made during such post-termination transition period. The election shall not be effective unless such statement is signed by a person authorized to sign the return required to be filed under section 6012 and by each shareholder required to consent to the election.

[T.D. 7976, 49 FR 35493, Sept. 10, 1984]

§ 18.1378-1 Taxable year of S corporation.

(a) *In general.* No corporation may make an election to be an S corporation for any taxable year unless the taxable year is a permitted year. In addition, an S corporation shall not change its taxable year to any taxable year other than a permitted year. A permitted year is a taxable year ending on December 31 or is any other taxable year for which the corporation establishes a business purpose (within the meaning of § 1.442-1(b)(1)) to the satisfaction of the Commissioner.

(b) *Corporations qualifying for automatic change of taxable year to a taxable year ending December 31 and corporations adopting a taxable year ending December 31—(1) Qualification for automatic change.* Notwithstanding section 442 (relating to change of taxable year) and the regulations thereunder, a corporation may automatically change its taxable year to a taxable year ending on December 31 to comply with the permitted year requirement if all of its principal shareholders have taxable years ending on December 31, or if all of its principal shareholders concurrently change to such taxable year. A shareholder may not change his or her taxable year without securing prior approval from the Commissioner. See section 442 and the regulations thereunder. For purposes of this paragraph, a principal shareholder is a shareholder having 5% or more of the issued and outstanding stock of the corporation. See paragraph (d) of this section in the case where a corporation does not qualify under this subparagraph for an automatic change of its taxable year to a taxable year ending on December 31.

(2) *Effect of filing an election—(i) General rule.* The filing of an election to be an S corporation by a corporation that has, prior to making the election, adopted a taxable year ending other than on December 31, and that qualifies